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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/747,735

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James William Rembert

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AT&T Legal Department - MB

Attn: Patent Docketing

Room 2A-207

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EXAMINER

TSEGAYE, SABA

ART UNIT

PAPER NUMBER

2419

MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/747,735	Applicant(s) REMBERT ET AL.	
	Examiner SABA TSEGAYE	Art Unit 2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the amendment filed 03/02/09. Claims 1-21 are pending. Currently no claims are in condition for allowance.

Claim Rejections - 35 USC § 101

2. Claims 15-21 are rejected under 35 U.S.C. 101 because the claimed medium is directed to propagation medium, i.e. signal, which is not statutory. Specifically, Page 5 [0019] “The computer-readable medium would include: an optical fiber” which is clearly defined the medium to be signal.

Claim Objections

3. Claims 1, 8, and 15 are objected to because of the following informalities: the claims contain **a common** MPLS, which was not described in the specification.

Claim Rejections - 35 USC § 103

4. Claims 1, 2, 4-9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harel et al. (US 2004/0190548 A1) in view of Chu et al. (US 2004/0151181 A1).

Regarding claims 1 and 8, Harel discloses a method of operating a multiprotocol label switching (MPLS) network, comprising:

establishing a label switched path (LSP) that connects a first provider edge (PE) label switched router (LSR) a second PE LSR, and a customer edge (CE) LSR (page 2, 0017, lines 9-21);

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encapsulating packet traffic that is associated with a plurality of different layer two technologies with MPLS label that identifies the LSP (see figs. 1 and 2; page 5, 0084); and securely routing the encapsulated packet traffic from the first PE LSR through the second PE LSR to the CE LSR using the LSP (page 2, 0017).

Harel does not expressly disclose a common MPLS label.

Chu teaches that to simplify the transmission of packets through a network, multiple LSPs between two MPLS nodes can be aggregated into a single large LSP by adding another MPLS label (common label) in front of the packet (0004).

It would have been obvious to one ordinary skill in the art at the time the invention was made to use a common MPLS label, such as that suggested by Chu, in the system of Harel in order to share network resources thereby simplifies the management of the network (0004).

Regarding claims 2 and 9, Harel discloses the method wherein the layer two technologies comprise asynchronous transfer mode (ATM) technology, frame relay technology, point-to-point protocol/high level data link control (HDLC) technology, private line time division multiplexing (TDM), and/or Ethernet technology (see fig. 2; claim 3).

Regarding claims 4 and 11, Harel discloses the method wherein the MPLS label is statically provisioned from the second PE LSR to the CE LSR and stitched to a signaled LSP in a service provider network that connects the first and second PE LSRs (encapsulated packets generated by modules 44, 46 and 48 are transmitted onto network 28 (MPLS) via multiplexer 50; and demultiplexer 56 receives encapsulated packet from network 28, and pass them to an

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appropriate de-encapsulation module... demultiplexer may identify the types of the packet) (0097-0098).

Regarding claims 5 and 12, Harel discloses the method further comprising: provisioning a pseudo wire virtual circuit within the LSP for each one of a plurality of attachment circuits at the first PE LSR (0017, lines 1-7).

Regarding claims 6 and 13, Harel discloses the method wherein the LSP and/or pseudo wires, which are terminated via signaling at the second PE LSR, transit on to the CE LSR (0017, lines 1-7).

Regarding claims 7 and 14, Harel discloses the method wherein each of the packets comprising the packet traffic comprises a control word that identifies one of the pluralities of different layer two technologies that the respective packet is associated with (page 2, 0017, lines 9-21).

Regarding claims 15, 16 and 18-21, Harel in view of Chu discloses all the claim limitations as stated above. Further, Harel discloses that the ITDs comprise combinations of dedicated hardware switching and logic elements with software-driven microprocessors for control and computation functions. Harel does not expressly disclose a computer program product for operating the MPLS network.

However, it would have been obvious to one ordinary skill in the art at the time the invention was made to use software-based machines. The benefit using computer-readable

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device is that programs can be changed and upgraded and new features are added easily than hardware changes.

5. Claims 3, 10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harel et al. in view of Chu et al. (US 2004/0151181 A1) as applied to claims 1, 8 and 15 above, and further in view of Chu et al. (US 2004/0059831 A1).

Harel in view of Chu (2004/0151181) discloses all the claim limitations as stated above, except for an internal service provider IP-virtual private network.

Chu (2004/0059831) teaches, in fig. 1 the second PE LSR (110) uses an internal service provider IP-virtual private network (0007; 0009; 0034; 0039-0041).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an IP-VPN, such as that suggested by Chu, in the system of Harel in order to secure a required bandwidth for each end user.

Response to Arguments

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SABA TSEGAYE whose telephone number is (571)272-3091. The examiner can normally be reached on Monday-Friday (7:30-5:00), First Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Saba Tsegaye
Examiner
Art Unit 2419

/S. T./
Examiner, Art Unit 2419

/Hong Cho/
Primary Examiner, Art Unit 2419